

Richard Mojica Discusses Impact of Uyghur Forced Labor Prevention Act on U.S. Companies in Various News Outlets

Comments included in the New York Times, Politico, NPR, Grid, VOA News, and PV Tech

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Richard Mojica was quoted by various news outlets on the impact the Uyghur Forced Labor Prevention Act (UFLPA), that went into effect on Tuesday, would have on U.S. companies. The new law bars products with any connection to the Xinjiang region of China from entering the U.S., presuming that products from this region are made with forced labor. Shipments are stopped at the U.S. border until importers can produce evidence that their supply chains do not touch Xinjiang or involve slavery or coercive practices. "Customs has been detaining merchandise – apparel products over concerns over the cotton, solar products over concerns over the polysilicon," Mojica told *NPR*, adding that "the burden of proof then shifts to the importer to demonstrate that the merchandise was, in fact, not made with forced labor."

Getting up to speed on UFLPA compliance will be more difficult for some businesses than others, such as an automaker with hundreds of suppliers. "The company doesn't really know where to start, and it's trying to find a way to prioritize and conduct due diligence in a way that is good enough, without knowing exactly what 'good enough' looks like," Mojica explained to *VOA News*. The UFLPA establishes a rebuttable presumption where any shipment from Xinjiang will be blocked by customs unless the importer can prove the product – and all its components – are not made with forced labor. Before the rebuttable presumption is applied to a detained shipment, companies will have the opportunity to argue their products are outside of the scope of the UFLPA. "At least in theory, there is an avenue to get your merchandise released," if it does not use Xinjiang components, Mojica noted to *Politico*.

The Department of Homeland Security (DHS) strategy document released June 17th states that companies may be requested to provide employment records for every worker in the Xinjiang factory in question. For Chinese companies, cooperating with U.S. customers to provide such information comes with the risk of citizens being punished for complying with U.S. sanctions. For these reasons, companies are unlikely to even try to disprove a forced labor charge, Mojica told *GRID*, adding that "the chances of success are likely very low, and the effort that would be required to overcome this is huge."

U.S. Customs and Border Protection (CBP) has elevated its policing of co-mingling of merchandise from the region and urges corporations to be ready to supply evidence around stock management and mixing. "Co-mingling seems to be Customs' main concern," Mojica told *PV Tech*, adding that "they know it's happening and bigger companies have been working to segregate their products." Large multinational companies have made the calculation that the China market is too valuable to leave and have begun walling off their Chinese and U.S. operations, continuing to use Xinjiang materials for the China market or maintain partnerships with entities that operate there. It's a strategy that "should suffice" since the jurisdiction of U.S. customs extends to just imports, although Canada, the U.K., Europe, and Australia are considering their own measures, Mojica told the *New York Times*.